



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No. 36879 of 2015

1. Jeyalakshmi
2. K.Arjunan
3. Maheswari
4. Baburaj
5. K.Shankar

...Petitioners

Vs.

1. The Chairman
Tamil Nadu Slum Clearance Board
No.5, Kamarajar Salai
Chennai - 600 005.
2. The Managing Director
Tamil Nadu Slum Clearance Board
No.5, Kamarajar Salai,
Chennai - 600 005.
3. T.Nirmalasevi
4. Sathya

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No.E5/10651/2015 dated 02.09.2015 and quash the same and consequentially direct them to execute sale deed in favour of petitioners herein to the property situated at Door No. 413, Plot No.447, N.S.K.Nagar, Arumbakkam, Chennai - 106.

For Petitioner : Mr. A. Yogaraj
For RR 1 & 2 : Mr. R.Sivakumar
For 3rd Respondent : Mr. T.S.Kani
For 4th Respondent : No appearance



O R D E R

The order dated 02.11.2015 passed by the second respondent is under challenge in the present Writ Petition. Consequently, direction is sought for to execute the sale deed in favour of the petitioner in respect of the property situated at Door No. 413, Plot No. 447, N.S.K. Nagar, Arumbakkam, Chennai - 106.

2.The learned counsel for the petitioner states that their mother submitted a representation on 30.01.2002 seeking no objection certificate from the respondent / Tamil Nadu slum Clearance Board for getting electricity service connection and for other purposes.

3.The mother of the petitioners expired on 09.12.2005 leaving behind the petitioners, had approached the authorities to get electricity service connections and for other charges.

4.The grievance of the writ petitioners is that the respondents 3 and 4 had created false document with an intention to grab the property belongs to the petitioners and they have filed a suit in O.S.No. 1875 of 2010 before the City Civil Court, Chennai and the said suit was dismissed on 23.12.2011. Thereafter, the petitioners had approached the respondents 1 and 2 on several occasions for execution of sale deed in favour of the petitioners. However, no action has been taken and thus, the petitioners are constrained to move the present Writ Petition.

5.The third respondent filed counter affidavit stating that the subject property originally was allotted to Mrs. Kamalammal, mother of the petitioners by the respondents 1 and 2 as per the Board's proceedings, by its order dated 11.10.1984. The said Mrs. Kamalammal sold out one part of portions of the subject property in favour of one Sathya. The fourth respondent in the present Writ Petition as early as before the year 1998. Another piece of land in superstructure was also sold out by the said Mrs.Kamalammal in favour of the third respondent on 04.04.2002 vide registered sale deed in Doc.No. 1307 of 2002 on the file of Sub Registrar Office, Kodambakkam and the possession was also handed over by the said Mrs.Kamalammal to the third respondent on the same day.

6.The writ petitioners witnessed the said sale deed . Apart from that by abandon caution, the writ petitioners with their mother executed unregistered sale deed in respect of the writ petitioners' property in respect of the third respondent. Thus the entire receipts over the subject property now vest in favour of the third respondent. The third respondent from the date of purchase is in uninterpreted possession and enjoyment of



the subject matter by virtue of the sale deed executed in his favour. Thus the petitioners have no right over the claim in their capacity as the legal heirs of late Mrs. Kamalammal.

7.It is contended that the petitioners at no point of time had resided in the subject property by suppressing the material facts. They filed W.P.No. 16217 of 2015 and got a direction against the respondents 1 and 2 to issue sale deed in respect of the subject property in their favour. Thereafter, the respondents 1 and 2 as per directions issued by this Court conducted inspection in the subject property and by conducting enquiry by providing opportunity to the petitioners decided that the claim of the petitioners are untenable. The third respondent appeared before the Officials for enquiry and submitted the copy of the sale deed in Doc.No. 1307 of 2002 and public documents for their lawful possession and enjoyment of the subject property. After conducting a detailed enquiry and on verification of the documents, the authorities come to the conclusion that the respondents 3 and 4 are having right over their respective portion of the property and they are in lawful possession and therefore, the claim of the petitioners were not considered.

8.This Court is of the considered opinion that even in case the petitioners raises an allegation of fraudulent activity or otherwise they are bound to approach the competent Court of law for the purpose of adjudication of issues with reference to the documents and evidences. Such an elaborate adjudication cannot be undertaken in a writ proceedings under Article 226 of the Constitution of India. As far as the Slum clearance Board is concerned, they have conduct an enquiry and arrived at a conclusion that the respondents 3 and 4 are in possession and enjoyment of the subject property and the subject properties were sold by the respective allottee Mrs. Kamalammal in favour of the respondents 3 and 4. This being the factum ascertained, the order impugned passed by the Tamil Nadu Slum Clearance Board, dated 02.09.2015 is in consonance with the procedure contemplated and there is no infirmity. As such, this Writ Petition is devoid of merits.

9.Hence, this Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsg



To

1. The Chairman
Tamil Nadu Slum Clearance Board
No.5, Kamarajar Salai
Chennai - 600 005.

2. The Managing Director
Tamil Nadu Slum Clearance Board
No.5, Kamarajar Salai,
Chennai - 600 005.

+1cc to Mr.R.Sivakumar, Advocate, S.R.No.69217

W.P.No. 36879 of 2015

SRA(CO)
RGA(12/01/2022)